United Nations A/HRC/36/NGO/13

General Assembly

Distr.: General
12 September 2017

English only

Human Rights Council
Thirty-sixth session
11-29 September 2017
Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by the Organization for Defending Victims of Violence, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 August 2017]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.17-15896(E)
1715896

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The United States of America and the United Kingdom Invested Billions of Dollars in Violation of Human Rights through Arm Deals with Saudi Arabia

Recently, the United States of America, the United Kingdom, and other European countries have sold massive arm deals to the Middle East Arab countries, particularly Saudi Arabia, without any clear assessment of the consequences of for human rights and humanitarian law denigration. Such decisions have resulted in diminishing the international community's move toward arms control and respect of humanitarian values. The billion-dollar arms deals jeopardized the future of non-proliferation of conventional weapons and counter terrorism programs; to an extent that it violates peace and security of the international community. Undoubtedly, lingering conflicts in the Middle East and North Africa are the direct result of such trades. A review on international law principles and documents illustrates the responsibilities of both parties, i.e. the sellers of the arms and the users of the arms against humanitarian goals.

The United Nations Charter, has emphasized on disarmament under the title of arms control and aims at preservation of international peace and security.1 The Preamble of the Charter defines the addressees of this international document "We the people" so it is indicative of the role of Mankind in the preservation of the existing order.2

However, the extensive sales of arms by western countries, especially Great Britain and the United States, to Arab Middle East countries, particularly the United Arab Emirates and Saudi Arabia, in their aggression against Yemen, has not only put to question the objectives of the UN but also have violated international laws. According to statements given by human rights groups and the UN, the Saudi led coalition is accused of grave violation of UN Security Council Resolution 1612 and Saudi Arabia is responsible for the deaths of 60 percent of the children in 2015 in Yemen.3

Furthermore, in 2015, Resolution 2220 of the Security Council deemed the excessive piling of small and light weapons as a cause for instability and potential threat against civilians and other vulnerable groups, and expressed its concern towards the violation of human rights and humanitarian law. The Resolution stresses on the responsibility of states to prevent threats against humanity and preservation of international peace and security and the primary responsibility of states in preservation of dignity and human rights in their jurisdiction based on international law. Although the Resolution concentrates on the illegal trade in small arms, it also contains general regulations on arms use and exploitation. Therefore, the sale and use of the weapons by Saudi Arabia against civilians and civilian properties in Yemen is a clear example of the "misuse" of arms against civilians. Another example for the "misuse" of the armaments is the use of cluster bombs by Saudi fighters which are prohibited for their huge civilian casualties.4

Also the Resolution 29/10 (2015) of the HRC expresses its concern over the exploitation of firearms, since they may undermine human rights and the right to life and security of individuals.5 The existing reports of various international human rights bodies have proven widespread and systematic violation of human rights by the Saudi government.

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1. "Article 11(1) The General Assembly may consider the general principles of co-operation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or to both." United Nations Charter

2 .Preamble: "WE THE PEOPLES OF THE UNITED NATIONS DETERMINED to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and ..."

3 The resulting air strikes killed some 60 percent of the 785 children who were killed and 1,168 wounded in Yemen last year, a U.N. report issued by Secretary General Ban Ki-moon said. <http://www.newsweek.com/un-blacklists-saudi-arabia-over-deaths-hundreds-children-yemen-air-strikes-466118?utm_source=internal&utm_ campaign=right&utm_medium=related1>

4 https://www.hrw.org/news/2016/05/06/yemen-saudis-using-us-cluster-munitions

5 Alarmed that hundreds of thousands of human beings of all ages around the world, including women and children, continue to have their human rights, in particular their right to life and security of person, negatively affected by the misuse, intentional or unintentional, of firearms, and that a significant number of such killings of women have occurred as a result of interpreter violence,

According to Amnesty International 2016-17 Annual Report, from the democratic process and observation of human right aspects, the Saudi government is continually a challenge and cause of concern for the international community, and in instances (including torture and execution of opponents) it moves the opposite direction of international values, and crackdowns, persecution and the taking of life is visible in the domestic practice of this government, which in a way is a state sponsored terrorism. Also the report highlights the imposition of human rights violating restrictions and defamation of the Shia minority of the country, their arbitrary detentions, imposition of unjust sentences, torture and taking lives and rejection of women's rights. The report points out the extensive human rights violations that have taken place outside the country in the aggression against Yemen and the committing of "war crimes"6 and the bloody attacks against schools, hospitals and civilian properties.7 In another remark, following the recent US-Saudi agreement for the sale of 110 billion dollars' worth of weapons to the Kingdom, Amnesty International, considering grave inhuman conditions in the domestic and foreign affairs of Saudi Arabia, deemed it as "glaring omission" of human rights.8

The articles 6 and 7 of the Arms Trade Treaty state that the sale of arms to a country that has committed genocide, crimes against humanity and war crimes is deemed violation of international law.9 Furthermore, according to article 11

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6 "Coalition forces led by Saudi Arabia committed serious violations of international law, including war crimes, in Yemen Throughout the year, killing and injuring thousands of civilians. Some attacks were indiscriminate, disproportionate or directed against civilians and civilian objects including schools, hospitals." <https://www.amnesty.org/en/countries/middle-east-and-north-africa/saudi-arabia/report-saudi-arabia/>

7 Saudi Arabia to increase the stock of its military hardware, accounting for 7% of the world's arms imports. <http://www.worldatlas.com/articles/world-s-largest-importers-of-military-arms.html>

8Independent, US politicians challenge Donald Trump's multi-billion dollar Saudi Arabian arms deal, <http://www.independent.co.uk/news/world/americas/donald-trump-arms-deal-saudi-arabia-110-billion-911-terrorism-international-law-war-crimes-a7747076.html>

9 Article 6

Prohibitions:

1. A State Party shall not authorize any transfer of conventional arms covered under Article 2 (1) or of items covered under Article 3 or Article 4, if the transfer would violate its obligations under measures adopted by the United Nations Security Council acting under Chapter VII of the Charter of the United Nations, in particular arms embargoes.

2.A State Party shall not authorize any transfer of conventional arms covered
under Article 2 (1) or of items covered under Article 3 or Article 4, if the transfer
would violate its relevant international obligations under international agreements to
which it is a Party, in particular those relating to the transfer of, or illicit trafficking in, conventional arms.

3.A State Party shall not authorize any transfer of conventional arms covered under Article 2 (1) or of items covered under Article 3 or Article 4, if it has knowledge at the time of authorization that the arms or items would be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes as defined by international agreements to which it is a Party.

Article 7

Export and Export Assessment

1.If the export is not prohibited under Article 6, each exporting State Party, prior to authorization of the export of conventional arms covered under Article 2 (1) or of items covered under Article 3 or Article 4, under its jurisdiction and pursuant to its national control system, shall, in an objective and non
-discriminatory manner, taking into account relevant factors, including information provided by the
importing State in accordance with Article 8 (1), assess the potential that the conventional arms or items:

(a)would contribute to or undermine peace and security;

(b)could be used to:

(i)commit or facilitate a serious violation of international humanitarian law;

(ii)commit or facilitate a serious violation of international human rights law;

(iii)commit or facilitate an act constituting an offence under international conventions or protocols relating to terrorism to which the exporting State is a Party; or

(iv)commit or facilitate an act constituting an offence under international conventions or protocols relating to transnational organized crime to which the exporting State is a Party.

of the Arms Trade Treaty, the exporting country is not exempt from the assessment of the possible dangers of the sale of arms to the importing country. Such responsibility is regardless of ratification of the Treaty by signatory countries, because according to article 18 of the Vienna Convention on the Laws of Treaties (1969), this Treaty is binding for all countries even if they have not ratified or adopted it.10

Meanwhile, according to article 16 of the Draft Articles on the Responsibility of States in Internationally Wrongful Acts, the exporting countries can be prosecuted for their partnership in international crimes, violation of humanitarian laws, and human rights. Therefore, not only the Saudi Coalition is responsible in the humanitarian catastrophe of Yemen, but also their billion-dollar partners in the recent arms sales should be hold accountable by the international community.

The billion-dollar arms contracts have sponsored one of the biggest humanitarian disasters in the Middle East. Although the erga omnes and jus cognes nature of the aforementioned principles are basic, they were totally ignored in these arms deals. International law constitute the foundations of international peace and security. ODDV recommends the Human Rights Council to establish a mandate for the assessment of the humanitarian effects of the sales of arms to Saudi Arabia. It is apt in view of international criminal justice bodies such as the ICC, the Security Council to adopt decision on the crimes committed in Yemen. Moreover, the HRC should take urgent steps to suspend Saudi Arabia from the Council.

2.The exporting State Party shall also consider whether there are measures that could be undertaken to mitigate risks identified in (a) or (b) in paragraph 1, such as confidence building measures or jointly developed and agreed programmes by the exporting and importing States.

3.If, after conducting this assessment and considering available mitigating
measures, the exporting State Party determines that there is an overriding risk of any of the negative consequences in paragraph 1, the exporting State Party shall not authorize the export.

4.The exporting State Party, in making this assessment, shall take into account the risk of the conventional arms covered under Article 2 (1) or of the items covered under Article 3 or Article 4 being used to commit or facilitate serious acts of gender
-based violence or serious acts of violence against women and children.

5.Each exporting State Party shall take measures to ensure that all authorizations for the export of conventional arms covered under Article 2 (1) or of items covered under Article 3 or Article 4 are detailed and issued prior to the export.

6.Each exporting State Party shall make available appropriate information about the authorization in question, upon request, to the importing State Party and to the transit or trans-shipment States Parties, subject to its national laws, practices or policies.

7.If, after an authorization has been granted, an exporting State Party becomes
aware of new relevant information, it is encouraged to reassess the authorization after consultations, if appropriate, with the importing State.

10 Article 18.